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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,664	12/03/2001	Michael Wayne Brown	AUS920010947US1	9674
43307	7590	09/22/2005	EXAMINER	
IBM CORP (AP) C/O AMY PATTILLO P. O. BOX 161327 AUSTIN, TX 78716			KNOWLIN, THJUAN P	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/004,664

Applicant(s)

BROWN ET AL.

Examiner

Thjuan P. Knowlin

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6-13 and 16-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-13 and 16-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/26/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on June 24, 2005 has been entered. Claims 1, 3, 6, 7, 11, 13, 16, 17, 21, 23, 24, 25, 29, 30, 31, 34, 39, 41, 42, 43, 46, 51, 53, 54, and 55 have been amended. Claims 4, 5, 14, and 15 have been cancelled. No claims have been added. Claims 1-3, 6-13, and 16-57 are still pending in this application, with claims 1, 11, 21, 29, 41, and 53, being independent.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6-13, 16-32, 34-44, and 46-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Baldwin et al (US 6,310,952).
3. In regards to claims 1, 6, 11, 16, 21, 24, 29, 35, 36, 37, 39, 41, 43, 46, 47, 49, 50, 51, 53, 54, 55, 56, and 57, Baldwin discloses a method, system, and computer program product for caller position adjustment (e.g. adjustment could depend on other caller's dropping-out of the queue, or due to other callers making bids that is higher than the

caller's bid) within a calling queue (See col. 2 lines 43-49 and col. 3 lines 44-51) comprising: receiving a call from a caller (See Fig. 1 and terminal equipment 12) at a call center (See Fig. 1 and telecommunications system 10) (See col. 3 lines 21-25); placing said call on hold in a calling queue of said call center, wherein said calling queue maintains an order in which calls are answered by representatives (See Fig. 1 and service provider 19) (See col. 3 lines 25-30); responsive to a selection of a position adjustment option by said caller while waiting on hold, transferring said call to a token advancement system while maintaining a record of said call that advances in said calling queue, wherein said token advancement system is accessible to a plurality of separate call centers via a network, wherein said token advancement system specifies for each of said plurality of separate call centers a separate selection of options from among a plurality of options for enabling said caller to earn an advancement token; responsive to detecting, at said calling queue, said advancement token earned by a caller from said token advancement system, calculating a separate redemption value of said advancement token specifically for adjustment of position within said calling queue; and responsive to calculating said redemption value of said advancement token, adjusting a position of said caller according to said redemption value within said calling queue, such that said caller is allowed control over said position within said calling queue (See col. 1 lines 10-31, col. 4 lines 32-6, and col. 4-5 lines 62-24).

4. In regards to claims 2, 12, 22, 30, 31, 32, 34, 38, 42, 44, and 48, Baldwin discloses the method, system, and computer program product, wherein detecting said advancement token further comprises: detecting said advancement token earned by a

caller by participating in at least one from among a competition, survey, and a redemption of membership points during a prior call made before a current call by said caller positioned in said calling queue (See col. 2 lines 32-58 and col. 3 lines 21-51).

5. In regards to claims 3, 13, and 23, Baldwin discloses the method, system, and computer program product, wherein detecting said advancement token further comprises: detecting said advancement token from said token advancement system communicatively connected to said calling queue (See col. 3 lines 38-51).

6. In regards to claims 7, 17, 25, 40, and 52, Baldwin discloses the method, system, and computer program product, further comprising: detecting when said caller is next in line to be answered within said calling queue; and transferring a next in line notification to said caller at said token advancement system (See col. 3-4 lines 52-15).

7. In regards to claims 8, 18, and 26, Baldwin discloses the method, system, and computer program product, further comprising: returning an unused portion of said advancement token to a promotion system for storage in association with said caller (See col. 3-4 lines 52-15).

8. In regards to claims 9, 10, 19, 20, 27, and 28, Baldwin discloses the method, system, and computer program product, wherein adjusting said position further comprises: advancing said call a particular number of positions within said calling queue (See col. 3 lines 44-51).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin et al (US 6,310,952).

10. Baldwin discloses all of claims 33 and 45 limitations, except the method and system, wherein enabling said caller further comprises: enabling said caller to participate in said competition, wherein options for types of said competition comprise at least one from among a trivia game, a card game, a random luck game, a logic game, and a word game. Baldwin, however, does disclose the competition being between placing bids. The bids are made towards hotel rooms, airline reservations, Super Bowl tickets; golf tee times, etc. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to employ one or more of these features within the system and method, as a way of allowing the competition to be between games.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-3, 6-13, and 16-57 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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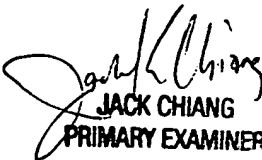
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker et al (US 6,222,920) teach a method and apparatus for value-based queuing of telephone calls. Walker et al (US 6,088,444) teach a method and apparatus for value-based queuing of telephone calls.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P. Knowlin whose telephone number is (571) 272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thjuan P. Knowlin

  
JACK CHIANG  
PRIMARY EXAMINER